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Before the
Federal Communications Commission
Washington, D.C. 20554 JUL 7 4 05 PM '94

DA 94-707

DISPATCHED BY

In the Matter of	)	
	)	
1994 Annual Access Tariff Filings	)	CC Docket No. 94-65
	)	
Nevada Bell	)	Transmittal No. 196
	)	
Pacific Bell	)	Transmittal No. 1701
	)	
Rochester Telephone Corporation	)	Transmittal No. 222
	)	
Vista Telephone Companies	)	Transmittal No. 30

MEMORANDUM OPINION AND ORDER SUSPENDING RATES

Adopted: June 24, 1994 **Released: June 24, 1994**

By the Acting Chief, Common Carrier Bureau:

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I. EXECUTIVE SUMMARY

1. In this Order,[1] the Common Carrier Bureau reviews the annual access tariff filings that the captioned local exchange carriers (LECs)[2] are required by Section 69.3(a) of the Commission's rules, 47 C.F.R. § 69.3(a), to submit on April 2, 1994, to become effective on July 1, 1994. We also direct certain parties to refile rates, where appropriate, in accordance with this Order.[3]

2. The tariffs filed by the captioned LECs propose $3.5 million in total access increases. These access increases are apportioned among access categories as follows: end user charges would increase by $2.8 million; carrier common line charges would increase by $13.5 million; traffic sensitive charges would decrease by $6.8 million; rates in the interexchange basket would not change; and rates in the new trunking basket would decrease by $5.9 million.

3. In this Order, the Bureau suspends Pacific Bell's annual access tariffs that raise issues concerning how sharing and lower end adjustments should be reflected in Pacific Bell's computation of its earnings and incorporates its tariff into the Commission's pending investigation of the same issues in CC Docket No. 93-193. In addition, this Order rejects proposals made by the petitioners to treat equal access amortizations exogenously. This Order also rejects proposals by Rochester and Vista to include certain regulatory fees as exogenous costs in their price cap indices (PCIs), and instead directs those LECs to adjust their PCIs to reflect endogenous treatment of the fees. Finally, this Order suspends those provisions in the annual access filings, identified by petitioners or the Bureau, that present issues substantially similar to, or closely dependent upon how we resolve, those currently under investigation in CC Docket No. 93-193, and includes those provisions in the 1993 investigation.

II. SHARING ISSUES

A. Pacific Bell Implementation of the Sharing Mechanism

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[1] In a companion Order, the Bureau addresses the annual access filings of the other price cap carriers as well as rate of return carriers. *See* 1994 Annual Access Tariff Filings, Memorandum Opinion and Order, CC Docket No. 94-NNN (released ___).

[2] Throughout the Order, we reference the captioned LECs, as follows: Nevada Bell; Pacific Bell; Rochester Telephone Corporation (Rochester); and Vista Telephone Companies (Vista). In citations to, and discussions of, an opposition to the petitions that Rochester and Vista have jointly filed, they are referred to collectively as "Rochester-Vista".

[3] Appendix A contains a list of those parties who filed pleadings in this proceeding and sets forth their full names and the abbreviated versions that are used to refer to them in the text of the Order.

1. Background

4. Under price cap regulation, a LEC is required to make a sharing adjustment to its PCIs if its rate of return for the preceding calendar year exceeds 12.25 percent,[4] and may make a lower end adjustment to its PCIs if its rate of return for that period falls below 10.25 percent.[5] The sharing and lower end adjustments are made as one-time adjustments to a single year's rates.[6] Recently, the Commission tentatively concluded in the *Add-Back Notice* that LECs should continue to be required to reflect the effects of the sharing and lower end adjustments when calculating their rates of return for the year subsequent to the year in which they incurred the sharing or lower end obligation.[7] The Commission further tentatively concluded that the price cap rules should be amended to clarify this requirement.[8]

2. Contentions of the Parties

5. MCI contends that Pacific Bell has understated its sharing obligations by failing to include an adjustment to revenues to offset the effect of the 1993 sharing adjustment.[9] MCI asserts that sharing amounts under price caps, like refunds under rate of return regulation, must be added back in order to ascertain whether any new sharing obligations exist in the current reporting period. Because of these alleged sharing understatements, MCI concludes that Pacific Bell's tariff should be suspended and investigated. MCI also asserts that it fully agrees with the

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[4] The 12.25 benchmark applies to LECs that operate with a 3.3 productivity offset. LECs that elect the more challenging 4.3 productivity offset do not have to make a sharing adjustment unless their rate of return exceeds 13.25 percent. Policy and Rules Concerning Rates for Dominant Carriers, Second Report and Order, 5 FCC Rcd 6786 (1990) (*LEC Price Cap Order*), Erratum, 5 FCC Rcd 7664 (Com. Car. Bur. 1990), *modified on recon.*, 6 FCC Rcd 2637 (1991) (*LEC Price Cap Reconsideration Order*).

[5] For example, under the sharing adjustment a LEC that uses the 3.3 percent productivity offset must share with its customers half of its earnings between 12.25 percent and 16.25 percent, and all of its earnings in excess of 16.25 percent. Under the lower end adjustment, a LEC that posts earnings below 10.25 percent, is entitled to adjust its rates upward to target earnings to 10.25 percent (the "lower end adjustment") in the following year. *LEC Price Cap Order* , at 6788, 6801-02.

[6] *Id.* at 6803; *see also LEC Price Cap Reconsideration Order*, 6 FCC Rcd at 2691 n.166.

[7] Price Cap Regulation of Local Exchange Carriers, Rate of Return Sharing And Lower Formula Adjustment, Notice of Proposed Rulemaking, 8 FCC Rcd 4415, 4417 (1993) (*Add-Back Notice*).

[8] *Id.*

[9] MCI Petition at 17-19 and Exhibit II.

Commission's proposal in the *Add-Back Notice* to require the adjustment to offset the earlier sharing adjustment, and that the Commission should not allow LECs to avoid their sharing obligations under price caps.[10] Allnet also maintains that all LECs which implemented sharing amounts in this year's tariff filings should be subject to an accounting order and the outcome of the investigation initiated in the *1993 Annual Access Order*.[11]

6. In opposition to MCI's and Allnet's arguments, Pacific Bell maintains that adoption of an add-back adjustment to offset the sharing adjustment runs counter to the fundamental goals and principles underlying price cap regulation and would be a reversion to rate-of-return principles.[12] Pacific Bell says that the proposal to require such an adjustment would turn an otherwise one-time adjustment to the price cap indices of a LEC that has incurred a sharing obligation into a continuing responsibility continuing over many years.[13] Pacific Bell further asserts that offsetting the sharing adjustment would operate like the permanent automatic stabilizer that the Commission proposed, but declined, to adopt in establishing the price cap system.[14] Pacific Bell states that, even if the Commission does not require this adjustment, it cannot apply that rule to the instant annual access filings because it would be an unlawful retroactive application of a substantive rule change.[15]

3. Discussion

7. In the *1993 Annual Access Order*, the Bureau suspended for one day the tariffs of those LECs that had a sharing or lower end adjustment in 1992, and set those tariffs for investigation, subject to an accounting order.[16] The issue under investigation in that proceeding is how price cap LECs should take into account amounts reflecting prior year sharing or lower end adjustments in computing their rates of return to determine the current year's sharing

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[10] *Id.*

[11] Allnet Petition at 4, *citing*, 1993 Annual Access Tariff Filings, 8 FCC Rcd 4960, 4973 (Com. Car. Bur. 1993) (*1993 Annual Access Order*).

[12] Pacific Bell Reply at 3.

[13] *Id.* at 4.

[14] *Id.*, *citing LEC Price Cap Order*, 5 FCC Rcd at 6803.

[15] Pacific Bell Reply at 4-5, *citing* American Tel. & Tel. v. FCC, 974 F.2d 1351 (D.C. Cir. 1992) (asserting that the Commission cannot require add-back as a purported "clarification" because it would be a substantive rule change).

[16] 8 FCC Rcd at 4965.

obligation and permissible lower end adjustments to the price cap indices.[17] Allnet, AT&T and MCI now advance essentially the same arguments with respect to all LECs that implemented a sharing or lower end adjustment in 1993. The arguments made by the LECs in their replies are also essentially the same as those made by the LECs participating in the 1993 investigation. Because of the similarity of the "add-back" issues raised in both access filings, we are adding the 1994 access transmittals to the 1993 investigation. In addition, as discussed above, the Commission has a pending rulemaking in which it proposed to require LECs incurring a sharing obligation or lower end adjustment in a prior year to adjust their earnings calculations in the following years to remove the effects of the prior-year sharing obligation or lower end adjustment.[18] We therefore suspend Pacific Bell's transmittal and incorporate it into the Commission's pending investigation in CC Docket 93-193.[19] Pacific Bell's transmittal is subject to the accounting order in CC Docket No. 93-193. After the termination of the 1993 investigation and prior to the termination of this investigation, we will give parties an opportunity to present any legal argument or factual circumstances that would lead us to conclude that the decisions reached in CC Docket No. 93-193 on add-back issues should not control our treatment of the 1994 access transmittals.

B. Omission of End User Revenues from the Common Line Basket for Sharing Purposes

1. Background

8. The *LEC Price Cap Order* states that the sharing obligation will be reflected in the PCI for each basket on a cost-causative basis.[20] In implementing this requirement, the *1992 Annual Access Order* required carriers to allocate sharing obligations on a cost-causative basis and found that basket revenues can be used as a proxy for basket costs in all baskets. That Order also concluded that sharing allocations based on basket revenues most closely comports with the goals of the Commission's price cap plan, moving away from cost allocation systems and instead focusing on prices.[21] Thus, for the purposes of calculating the sharing amount to be allocated to the common line basket on a cost-causative basis, common line revenues may be used as a surrogate for common line costs. In the 1993 annual access tariffs, the Bureau designated for investigation the issue of whether Bell Atlantic should be permitted to exclude end user common line charge revenues when it computes the sharing obligation to be apportioned

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17 *Id.* at 4973.

18 *See* n.7 *supra.*

19 *1993 Annual Access Order*, 8 FCC Rcd at 4965, 4973-75.

20 *LEC Price Cap Order*, 5 FCC Rcd at 6805.

21 1992 Annual Access Tariff Filings, CC Docket No. 92-141, 7 FCC Rcd 4731, 4732-33 (Com. Car. Bur. 1992) (*1992 Annual Access Order*).

to the common line basket.[22]

2. Contentions of the Parties

9. AT&T argues that Pacific Bell has impermissibly failed to include its subscriber line revenues in the base period common line basket when it computed the adjustment to that basket's PCI required by its 1993 sharing obligation and thus has not allocated its sharing adjustment among all price cap baskets on a cost-causative basis.[23] AT&T asserts that using the correct revenue amounts would result in a substantial change to Pacific Bell's sharing allocations.[24] Allnet also contends that Pacific Bell has incorrectly omitted subscriber line revenues from its common line baskets.[25] Allnet and AT&T both ask the Commission to impose an accounting order to require Pacific Bell to reallocate its 1993 sharing amounts in accordance with the price cap rules.[26]

10. Pacific Bell responds that, although the Commission requires that sharing adjustments be allocated on a cost-causative basis, it has declined to specify a particular method of reflecting cost-causation.[27] That being so, says Pacific Bell, its use of carrier common line revenues as a proxy for common line costs meets the Commission's cost-causation requirement.[28] Pacific Bell observes that the sharing obligation does not change subscriber line revenues because they are not developed using price cap methods, but rather, from "bottoms up" forecasted cost and demand levels under Part 69 of the Commission's rules.[29]

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[22] *1993 Annual Access Order*, 8 FCC Rcd at 4966

[23] AT&T Petition at 11-12, *citing 1992 Annual Access Order*, 7 FCC Rcd at 4732-33.

[24] According to AT&T, Bell Atlantic's reported common line sharing allocation is 24 percent or $14.633 million, but the correct common line sharing allocation should be 47 percent or $28.404 million. AT&T states that the failure to include subscriber line revenues causes an understatement of Bell Atlantic's common line basket revenues of $13.771 million. AT&T Petition at 12 and Appendix C.

[25] Allnet Petition at 3.

[26] *Id.* at 3-4; AT&T Petition at 11 n.8, *citing* Commission Requirements for Cost Support Material To Be Filed with 1993 Annual Access Tariffs, 8 FCC Rcd 4960, 4973-74 (Com. Car. Bur. 1993) (*1993 TRP Order*).

[27] Pacific Bell Reply at 5-6, *citing* 47 C.F.R. § 61.45(d)(4).

[28] *Id.* at 6.

[29] *Id.*

3. Discussion

11. The issue of excluding subscriber line revenues from the computation of revenues used to allocate the sharing obligation from among baskets is the same issue in our current investigation. We find that administrative convenience would be served by our adding Pacific Bell's transmittal to that investigation. We therefore suspend Pacific Bell's tariff for one day and incorporate it into the Commission's investigation of exclusions of subscriber line revenues for sharing purposes in CC Docket No. 93-193.[30] The Pacific Bell transmittal is also subject to the accounting order in CC Docket No. 93-193. After the termination of the 1993 investigation and prior to the termination of this investigation, Pacific Bell may present any legal argument or factual circumstances that might lead us to conclude that the decisions reached in CC Docket No. 93-193 on sharing allocation issues should not control our treatment of the 1994 access transmittals.

C. Pacific Bell's Reversal of Sharing

1. Background

12. Under the Commission's price cap rules, a sharing obligation imposes a one-time adjustment upon the affected carrier's PCI. Accordingly, after a carrier has fully met its sharing obligation, it must "reverse" the effect of the sharing adjustment on the PCI in order to restore the status quo. The adjustment needed to accomplish this should differ from the original sharing adjustment by the percentage change in basket revenues ("R") from calendar year 1992 to calendar year 1993.[31] Thus, if there was growth in revenues between 1992 and 1993, the adjustment made in the calculation of the 1994 PCI to offset the 1993 sharing adjustment the reversal amount would be increased to reflect that revenue growth. On the other hand, if revenues decreased from 1992 to 1993, the former adjustment would be decreased to reflect that

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[30] *1993 Annual Access Order*, 8 FCC Rcd at 4966, 4973-75.

[31] The Bureau explained how the reversal was to be achieved in the *1994 TRP Order*, stating that

> Because "R," the variable in the PCI formula that equals base period demand multiplied by rates, has changed since the 1993 annual access filings, the amount displayed for the removal of sharing or low end adjustment will not match the original sharing or low end adjustment reported in the 1993 TRP. The amount of the removal should differ from the original sharing or low end adjustment by the percent change in "R" between the 1993 and 1994 annual filings.

Commission Requirements for Cost Support Material To Be Filed with 1994 Annual Access Tariffs and for Other Cost Support Material, 9 FCC Rcd 1060, 1063 n.29 (Com. Car. Bur. 1994) (*1994 TRP Order*).

decline. This allows the percentage adjustment to the PCI made to offset the 1993 sharing adjustment to equal the percentage adjustment due to the original sharing amount.

2. Contentions of the Parties

13. Sprint argues that the percentage change in "R" required to offset Pacific Bell's 1992 sharing obligation as computed by Pacific Bell is too high because it used prior year (1992) revenues that are lower than the 1992 revenues reported in their 1993 annual access filings. Because the change in "R" equals 1993 revenues divided by 1992 revenues, argues Sprint, the change in "R" as computed by Pacific Bell is overstated. According to Sprint, the overstatement has the effect of allowing Pacific Bell to include exogenous cost increases for the reversal amounts which significantly exceed the original sharing amounts.[32]

14. In its reply, Pacific Bell concedes that it used 1993 revenues adjusted for the September 1, 1993 local transport restructure filing to reverse 1992 sharing amounts.[33] Pacific Bell states that because of the small difference resulting from the change in "R" -- $160,000 -- no associated rate changes were necessary.[34] Pacific Bell subsequently amended its tariff to adjust the "R" amount to reflect the correct reversal amount.[35]

3. Discussion

15. We have reviewed the amendment made by Pacific Bell to adjust its "R" amounts to reflect the correct offsetting amounts. We conclude that these amendments adequately address the problem raised by Sprint with regard to offsetting the sharing adjustment made to compute the 1993 PCI. We find that Pacific Bell has included the correct R amounts in its calculations. Therefore, we see no need to investigate this issue.

III. TRANSPORT ISSUES

A. DS3-to-DS1 Transport Rate Ratios

1. Background

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[32] Sprint Petition at 5.

[33] Pacific Bell Reply at 8.

[34] *Id.*

[35] *Id. See also* Pacific Bell Tariff F.C.C. No. 128, Transmittal No. 1701 - Amended, at Revised TRP Worksheet PCI-1, (filed May 13, 1994) (recalculating the sum of 1993 "R" values to be $1,519,242,000); Pacific Bell Tariff F.C.C. No. 128, Transmittal Letter No. 1701 - Amended (filed June 14, 1994) (further modifying allocation methodology of reversal "R" of 1992 sharing to the price cap baskets).

16. Transport is a component of the LECs' interstate switched access service that enables IXCs and other customers to originate and terminate interstate switched telecommunications traffic. Transport refers to the local transmission service between customer points of presence (POPs) and LEC end offices, at which local switching occurs.[36] In its transport rate structure and pricing rulemaking proceeding, the Commission adopted interim rules that restructured the LECs' transport rate structure.[37] In their comments in that proceeding, small and medium IXCs asked the Commission to require LECs to maintain a prescribed ratio between DS1 and DS3 transport rates. The Commission decided to require a DS3-to-DS1 rate relationship only for initial transport rates.[38]

17. Specifically, the Commission concluded that if the ratio of initial DS3 to DS1 transport rates was greater than a benchmark ratio of 9.6-to-1, the rates would be presumed reasonable and generally be allowed to become effective without suspension and investigation.[39] When the Commission subsequently proposed to establish the new trunking basket that would include transport rates small and medium IXCs renewed their proposals that the Commission suspend and investigate the reasonableness of DS3 and DS1 transport rates if their ratio did not exceed a prescribed benchmark ratio.[40] The Commission rejected these proposals, finding that the maintenance of the proposed DS3-to-DS1 benchmark would unnecessarily discourage LECs from lowering their DS3 and DS1 rates.[41]

2. Contentions of the Parties

18. Sprint maintains that, even though there is no rule prohibiting LECs from lowering DS3 transport rates so that the DS3 to DS1 ratio falls below the benchmark of 9.6-to-1 set for

[36] Transport Rate Structure and Pricing, Second Report and Order, 9 FCC Rcd 615, 616 n.1 (*Transport Second Report and Order*) (1994).

[37] Transport Rate Structure and Pricing, Report and Order, and Further Notice of Proposed Rulemaking, 7 FCC Rcd 7006, 7029-31 (1992) (*Transport Order*), *recon.* First Memorandum Opinion and Order on Reconsideration, 8 FCC Rcd 5370 (1993) (*First Reconsideration Order*), *recon.*, Second Memorandum Opinion and Order on Reconsideration, FCC 93-403 (released Aug. 18, 1993) (*Second Reconsideration Order*), *pets. for recon. pending, appeal dismissed sub nom.* New England Tel. and Tel. Co. v. FCC, No. 93-1494 (D.C. Cir. Sept. 7, 1993), *pet. for review pending sub nom.* Full Service Computing Corp. v. FCC, No. 93-1670 (D.C. Cir., filed Oct. 4, 1993).

[38] *Id.* at 7032-34.

[39] *Id. See also* 47 C.F.R. § 69.108.

[40] *Transport Second Report and Order,* 9 FCC Rcd at 621-22.

[41] *Id.* at 623.

initial transport rates, Pacific Bell proposes transport rates that will "enable [it] to move further and further away from cost-based rates and to skew IXC competition."[42] According to Sprint, Pacific Bell proposes to lower its current DS3-to-DS1 ratio from 10.89-to-1 to a 10.83-to-1.[43] Sprint maintains that the 9.6-to-1 benchmark ratio for comparing initial DS3 and DS1 transport rates, which the Commission deemed to produce presumptively lawful rates, is "far too low and not reflective of underlying costs."[44] Sprint asserts that because AT&T is able to use proportionally more DS3 access than other IXCs by virtue of its size allowing the BOCs to charge switched DS3 rates that are too low relative to switched DS1 rates gives AT&T an access cost advantage over medium and small IXCs.[45]

19. In its reply, Pacific Bell argues that its DS3 and DS1 rates are in compliance with the Commission's transport rules. Although the rules for initial transport rates required ratio of at least 9.6-to-1 the ongoing transport rates may vary within the limits set by the price cap rules.[46] Pacific Bell further argues that, even if the 9.6-to-1 benchmark for initial transport rates were applied to its proposed ongoing transport rates, they are still well above that benchmark.[47]

3. Discussion

20. As Pacific Bell correctly asserts and Sprint concedes, the Commission's rules do not require the LECs to maintain a benchmark relationship between its 1994 DS3 and DS1 rates Pacific Bell's proposed DS3 and DS1 transport rates are below the applicable price cap and within the governing service bands. Under the circumstances, we conclude that Sprint has failed to show that the DS3 and DS1 transport rates filed by Pacific Bell are patently unlawful or to raise any question regarding these rates that warrants investigation at this time.

B. Tandem-Switched Transport and Direct-Trunked Transport Rates

1. Background

21. In the *Transport Order*, the Commission adopted an interim transport rate structure consisting of flat-rate charges for entrance facilities, direct-trunked transport, dedicated signalling

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[42] Sprint Petition at 3.

[43] *Id.*

[44] Sprint Petition at 2, *citing Transport Order,* 7 FCC Rcd at 7034.

[45] Sprint Petition at 2-3.

[46] Pacific Bell Reply at 2.

[47] *Id.* at 1-2.

transport, and per-minute charges for tandem-switched transport and the interconnection charge.[48] The Commission generally required that initial rates for entrance facilities, direct-trunked transport, dedicated signalling transport, and tandem-switched transport be set on the basis of special access rates, while the interconnection charge initially was to be priced on a residual basis.[49]

22. Direct-trunked transport (DTT) service is transmission of traffic between the LEC serving wire center (SWC) and a LEC end office, or between any two customer-designated LEC offices, that requires no tandem switching.[50] Tandem-switched transport (TST) is transmission of traffic between the SWC and an end office, or between a tandem office and an end office, that is switched at a tandem.[51]

2. Contentions of the Parties

23. Comptel argues that Pacific Bell has increased its TST interoffice rates relative to its DS1 and DS3 DTT interoffice rates.[52] Comptel maintains that Pacific Bell is effectively loading a disproportionate amount of network costs on TST users whose traffic volumes are too low to justify DTT services, and who lack feasible marketplace alternatives to TST.[53] Comptel asserts that Pacific Bell has "decoupled" TST rates from the underlying DS1 and DS3 rates, and completely ignored the copper-to-fiber ratio resulting in an additional cost to TST users of $8 million.[54]

24. In its reply, Pacific Bell asserts that the Commission does not require any direct linkage or benchmark ratio for DTT and TST rates.[55] Pacific Bell concludes that there is no basis for rejection or suspension of its tariffs because the proposed DTT and TST rates are below the applicable price cap and within the governing service bands.[56]

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[48] *Transport Order*, 7 FCC Rcd at 7043-44.

[49] *Id.*

[50] *Transport Second Report and Order*, 9 FCC Rcd at 618 n.7.

[51] *Id.*

[52] Comptel Petition at 3, *citing* Comptel Reply Comments, CC Docket No. 91-213, at 3, 14, 22 (filed Mar. 19, 1993).

[53] Comptel Petition at 4.

[54] *Id.* at 4-5.

[55] Pacific Bell Reply at 2.

[56] *Id.*

3. Discussion

25. As Pacific Bell correctly asserts, the Commission does not prescribe any rate relationships between the TST and DTT service categories, and has granted pricing flexibility for TST rates within the plus-2 and minus-5 service band.[57] Furthermore, the TST rates and DTT rates proposed by Pacific Bell are below the applicable price cap and within the governing service bands. Accordingly, we conclude that Comptel has failed to demonstrate that the TST and DTT rates proposed by Pacific Bell are patently unlawful or to raise any issue that warrants investigation of those rates at this time.

C. Pacific Bell Delta-Y Interexchange Costs

1. Background

26. LECs that provide "corridor" services[58] between their Local Access Transport Areas (LATAs), or interstate intraLATA services are required to impute access charges, including a residual interconnection charge, to themselves and to include revenues from these charges in their interexchange basket. The delta-Y factor is an exogenous cost adjustment that we require LECs to make to the PCI to reflect changes in the levels of interstate access rates that the LECs must impute to themselves when they offer such interstate services.[59]

2. Discussion

27. Allnet maintains that Pacific Bell has excluded the changes to certain access rate elements including the interconnection charge from its calculation of the delta-Y factor through which changes in access charges are imputed to the interexchange basket. Allnet also argues that Pacific Bell calculated local transport revenue using average revenue-per-minute, when it should have used an average of rate element revenues.[60] Pacific Bell maintains in its reply that because it does not have any corridor traffic in its LATAs it does not need to caclulate delta-Y.[61]

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[57] *Transport Second Report and Order*, 9 FCC Rcd at 623, 629-32.

[58] "Corridor" services are interstate offerings generally found in or between large metropolitan areas. Corridor services are provided by certain Bell Operating Companies (BOCs) as exceptions to Modification of Final Judgment prohibitions on the BOCs providing interexchange services. *LEC Price Cap Order*, 5 FCC Rcd at 6811-12 n.252

[59] *See LEC Price Cap Order*, 5 FCC Rcd at 6808; *see also* 47 C.F.R. § 61.44(d); Policy and Rules Concerning Rates for Dominant Carriers, Report and Order and Further Notice of Proposed Rulemaking, 4 FCC Rcd 2873, 3026-39 (1989) (AT&T Price Cap Order).

[60] Allnet Petition at 5.

[61] Pacific Bell Reply at 9.

3. Discussion

28. We have reviewed Pacific Bell's transmittal and find that it is correct. Pacific Bell need not calculate the delta-Y because it does not have any corridor traffic. We therefore conclude that Allnet has neither demonstrated that Pacific Bell has improperly calculated nor raised any question regarding Pacific Bell's calculation of the delta-Y factor that warrants investigation at this time.

IV. EXOGENOUS COST ISSUES

A. Exogenous Treatment of Expiration of Equal Access and Network Reconfiguration Amortization Program

1. Background

29. In a companion order to the Modification of Final Judgment (MFJ)[62], the U.S. District Court required AT&T to guarantee BOCs recovery of the costs of reconfiguring their networks to provide equal access to interexchange carriers (IXCs). The District Court also directed AT&T and the BOCs to develop procedures to account for the equal access and network reconfiguration (EANR) costs.[63] In 1985, AT&T and the BOCs petitioned the Commission to approve a plan of accounting for EANR costs. AT&T and the BOCs estimated that the total equal access expenditures would exceed $2.6 billion and would be incurred over a short period of time.[64]

30. The *EANR Order* identified only certain costs that would be treated as equal access costs, including: (1) initial incremental costs for hardware and software related directly to the provision of equal access, and not otherwise required; (2) costs of connecting offices that service competitive IXCs; and (3) costs that have been incurred as a result of bona fide requests for conversion to equal access.[65] The Commission required the BOCs to amortize EANR costs over

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[62] United States v. American Tel. & Tel. Co., 552 F. Supp. 131 (D.C. Cir. 1983), *aff'd sub nom.*, Maryland v. United States, 460 U.S. 1001 (1983).

[63] United States v. Western Electric Co., Inc., 569 F. Supp. 1057, 1123 (D.D.C. 1983).

[64] Petitions for Recovery of Equal Access Costs, Memorandum Opinion and Order, FCC 85-628, 50 Fed. Reg. 50,910, 50,913-14 n.16 (1985) (*EANR Order*), *aff'd on recon.*, 1 FCC Rcd 434 (1986) (*EANR Reconsideration Order*).

[65] *EANR Order*, 50 Fed. Reg. at 50,912-13; *see also EANR Reconsideration Order*, 1 FCC Rcd at 437 (rejecting proposals to include equal access costs in the amortization "regardless of whether competition exists or a bona fide request for conversion was received").

an eight-year period that would expire on December 31, 1993.[66] The Commission concluded that the establishment of a fixed amortization period with a definite termination point of December 31, 1993, would avoid substantial irregular fluctuations in rates and reduce the administrative burdens of tracking EANR costs.[67]

31. When the Commission established the system of price cap regulation for LECs in 1990, it decided that the costs of conversion to equal access should be treated endogenously.[68] The Commission concluded that according exogenous treatment to equal access costs, whether already incurred[69] or newly arisen, would create perverse incentives for the LECs "to inflate the amounts spent on equal access."[70] In the *LEC Price Cap Reconsideration Order*, the Commission affirmed the decision to treat equal access costs endogenously.[71] In the *1994 TRP Order*, the Bureau rejected AT&T's argument that the expiration of the EANR amortization program should be treated exogenously and should result in a downward adjustment to PCI levels. The Bureau noted that the Commission rejected in *LEC Price Cap Reconsideration Order* a substantially similar argument raised by MCI.[72]

2. Petitions

32. MCI and AT&T argue that, since the costs of EANR were fully amortized on December 31, 1993, the LECs should be required to treat the expiration of the EANR amortization as exogenous.[73] They maintain that all of the price cap carriers have failed to make adjustments to their price cap indices to reflect the full amortization of EANR costs.[74] AT&T estimates that total cost to the BOCs of converting their exchanges and end offices to equal

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[66] *EANR Reconsideration Order*, 1 FCC Rcd at 437.

[67] *Id.*

[68] *LEC Price Cap Order*, 5 FCC Rcd at 6808.

[69] The Commission had found that the largest price cap LECs had already completed conversion to equal access. *LEC Price Cap Order*, 5 FCC Rcd at 6808.

[70] *Id.*

[71] *LEC Price Cap Reconsideration Order*, 6 FCC Rcd at 2666-67.

[72] *1994 TRP Order*, 9 FCC Rcd at 1063, *citing LEC Price Cap Reconsideration Order*, 6 FCC Rcd at 2666-67 n.77.

[73] MCI Petition at 20-22; AT&T Petition at 4-5.

[74] AT&T Petition at 2-9; MCI Petition at 20-21.

access is $1.2 billion.[75]

33. MCI and AT&T both liken expiration of the EANR amortization to expirations of the reserve deficiency amortization (RDA) and inside wire amortization (IWA).[76] AT&T cites the concern the Commission expressed in its decision in the *LEC Price Cap Order* to accord exogenous treatment to the RDA, that:[77]

> it would be unfair to ratepayers who are now bearing the cost of the amortization program if rates were not adjusted downward at the end of the program.

AT&T further contends that the Commission's decision to treat the expiration of IWA exogenously to effect a reduction in LEC rates "applies with equal force to the expiration of the EANR amortization."[78]

34. MCI maintains that, just as the Commission had the expectation when it established the RDA and IWA that costs would be fully recovered and corresponding rates would decrease at the end of the amortization, the Commission similarly expected, in establishing the EANR amortization, that rates would decrease when the EANR amortization expired.[79] MCI and AT&T conclude that the Commission must accord exogenous treatment to the expiration of the EANR amortization and adjust downward the price cap indices in order to achieve consistency in the treatment of amortizations that were in effect at the time price cap regulation was established.[80]

3. Replies

35. The LECs contend that AT&T and MCI are in error because the Commission has already rejected proposals to treat the expiration of the EANR amortization exogenously.[81] They

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[75] AT&T Petition at 3.

[76] *Id.* at 5-6; MCI Petition at 22-23, *citing LEC Price Cap Order*, 5 FCC Rcd at 6808; *LEC Price Cap Reconsideration Order*, 6 FCC Rcd at 2673-75.

[77] *Id.* at n.8, *citing LEC Price Cap Order*, 5 FCC Rcd at 6808.

[78] *Id.*, at 6 n.9, *citing LEC Price Cap Reconsideration Order*, 6 FCC Rcd at 2673-74.

[79] MCI Petition at 23 n.16, *citing EANR Reconsideration Order*, 1 FCC Rcd at 437.

[80] AT&T Petition at 8-9; MCI Petition at 23-24.

[81] Nevada Reply at 3; Pacific Bell Reply at 7; Rochester-Vista Reply at 8-9, *citing LEC Price Cap Order*, 5 FCC Rcd at 6808, *LEC Price Cap Recon Order*, 6 FCC Rcd at 2667 n.77; *1994 TRP Order*, 9 FCC Rcd at 1063.

assert that the Commission concluded in the *LEC Price Cap Order*, and affirmed in the *LEC Price Cap Reconsideration Order*, that all equal access costs are to be treated endogenously.[82] Rochester-Vista also states that AT&T and MCI incorrectly assume that all equal access costs have been recovered with the expiration of the EANR amortization because equal access costs continue to be incurred.[83]

4. Discussion

36. Section 61.45(d) of the Commission's rules, 47 C.F.R. § 61.45(d), restricts the categories of cost changes that price cap LECs are allowed to treat exogenously to those listed and those that the Commission may designate as exogenous. It does not include EANR costs among those listed as exogenous. Therefore, a plain reading of Section 61.45(d) precludes exogenous treatment of EANR costs. Furthermore, as the LECs correctly note the Commission concluded in both the *LEC Price Cap Order* and the *LEC Price Cap Reconsideration Order* that all equal access costs are to be treated endogenously.[84]

37. Specifically, in the *LEC Price Cap Reconsideration Order*, the Commission rejected MCI's proposal to treat BOC equal access costs in the same way as the RDA and IWA amortizations and to require a downward adjustment in PCI levels in 1994 to eliminate all equal access costs.[85] The Commission concluded that there was a "meager factual record presented on the issue of equal access costs" and that the amortization of equal access costs is comparable to changes in depreciation levels that do not require an adjustment to the PCI when the equipment is fully depreciated.[86] As noted above in the *1994 TRP Order*, the Bureau relied on the Commission's prior decision in rejecting AT&T's proposal that the completion of the eight-year EANR amortization be treated exogenously.[87]

38. We believe that exogenous treatment of the EANR amortization would undercut the Commission's goal that the rates permitted under the price cap indices be driven by

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[82] *Id.*

[83] Rochester-Vista Reply at 10.

[84] *LEC Price Cap Order*, 5 FCC Rcd at 6808; *LEC Price Cap Reconsideration Order*, 6 FCC Rcd at 2667 n.77.

[85] *LEC Price Cap Reconsideration Order*, 6 FCC Rcd at 2667 n.77.

[86] *Id.*

[87] 9 FCC Rcd at 1063 n.28.

competition and market economies.[88] This is so because the Commission specifically found, in establishing price cap regulation and rejecting exogenous treatment of EANR costs, that:

> For the largest carriers, conversion [to equal access] has been largely completed, and its associated costs are embedded in existing rates. This being the case, there is little need to encourage these LECs to convert to equal access by treating the costs of conversions as exogenous.[89]

In addition, even if the EANR amortization did warrant exogenous treatment, such treatment would require a substantive rule change because Section 61.45(d) does not provide for exogenous treatment of the EANR amortization and no LEC has otherwise petitioned for, and been granted, a waiver of that rule. We, therefore, conclude that AT&T and MCI have failed to present a question that warrants investigation at this time.

B. Exogenous Treatment of Regulatory Fees

1. Background

39. The Omnibus Budget Reconciliation Act of 1993 amended the Communications Act of 1934 by adding Section 9. That Section authorizes the Commission to assess and collect annual regulatory fees to recover the costs incurred in carrying out its enforcement activities, policy and rulemaking activities, user information services and international activities.[90] The schedule of fees established by the statute for fiscal year 1994 requires IXCs to pay an annual regulatory fee equal to $60.00 per 1,000 presubscribed access lines, and LECs to pay an annual regulatory fee of $60.00 per 1,000 access lines.[91] The Commission recently adopted regulations

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[88] *See, e.g.* Price Cap Performance Review for Local Exchange Carriers, Notice of Proposed Rulemaking, 9 FCC Rcd 1687, 1699 (1994) (proposing that the Commission should "reduce the categories of cost changes eligible for exogenous treatment where this will improve price cap efficiency incentives").

[89] *LEC Price Cap Order,* 5 FCC Rcd at 6808.

[90] Pub. L. No. 103-66, Title VI, § 6002(a), 107 Stat. 397 (approved Aug. 10, 1993) (*Budget Act*). New Section 9 of the Communications Act of 1934 is codified at Section 159 of Title 47, United States Code, 47 U.S.C. § 159.

[91] 47 U.S.C. § 159(g). The statute requires the Commission to amend the fee schedule in any year after fiscal year 1994 by proportionate increases or decreases that reflect changes in the amount appropriated for that fiscal year for the performance of the Commission's enforcement, policy and rulemaking, information services and international activities. 47 C.F.R. § 159(b). The government's 1994 fiscal year commenced on October 1, 1993, and ends September 30, 1994.

to implement the requirements of Section 9.[92]

40. Section 9(f) of the Act requires the Commission to permit payment by installments for regulatory fees in "large amounts."[93] In the *1994 Fees Order*, the Commission specified "large amounts" to be any fees that "are significantly higher than all others" and to allow entities who have to pay "large amounts" to make two "separate and equally divided" payments in fiscal year 1994 instead of paying the entire amount at once.[94] The Commission identified annual regulatory fees in excess of $500,000.00 to be a "large amount" with respect to LEC holding companies, and any annual fee payment in excess of $700,000.00 to be a "large amount" with respect to IXCs.[95] Thus, any LEC holding company or IXC with annual regulatory fees in excess of the specified amounts is allowed to make two equal installment payments under the rules. Rochester and Vista both propose to treat the regulatory fees at issue exogenously in their annual access filings.[96]

2. Petitions

41. None of the petitioners specifically address Rochester's or Vista's claim that the fees should receive exogenous treatment. Discussing a similar claim by Bell Atlantic, however, MCI contends that Bell Atlantic's proposal to increase its price cap indices by $1.078 million to account for the changes in levels of the Commission's regulatory fees is unwarranted because Section 61.45(d) does not permit exogenous cost treatment for such fees, and Bell Atlantic has not otherwise obtained a waiver.[97] Arguing that the fees are similar to a tax used to generate funding for Commission operations, and the price cap rules specifically deny treatment of tax changes as exogenous, Allnet opposes exogenous treatment of the regulatory fees established by

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[92] Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year, Notice of Proposed Rulemaking, MD Docket No. 94-19, FCC 94-46, _ FCC Rcd ___ (released Mar. 11, 1994) (*1994 Fees Notice*); Report and Order, FCC 94-__, MD Docket No. 94-19 (released June 8, 1994) (*1994 Fees Order*).

[93] 47 U.S.C. § 159(f).

[94] *1994 Fees Order* at paras. 36-45.

[95] *Id.*

[96] Rochester Tariff F.C.C. No. 1, Transmittal No. 222, D&J, at 8 (proposing to recover $41,284 (RBU) and $18,615 (subsidiaries) for the period January 1994 through June 1995 during the 1994-1995 tariff year) (filed April 1, 1994); Vista Tariff F.C.C. No. 1, Transmittal No. 30, D&J, at II-2 (proposing to recover $12,000 in fees for the period January 1994 through June 1995 during the 1994-1995 tariff year) (filed April 1, 1994).

[97] MCI Petition at 24. We note that all of the pleadings were filed prior to adoption of the *1994 Fees Order* and thus do not directly address it.

the Budget Act.[98]

42. Allnet further contends that even if it is proper to treat these regulatory fees as exogenous, a LEC should not be permitted to do so because: (1) the amounts to be assessed are still uncertain, as the Commission has not yet established the cut-off date for determining the number of lines to be used for the derivation of the fees; and (2) the Commission has not yet determined whether they are to be assessed at the operating company level, or holding company level.[99] Sprint argues that the Commission should disallow Bell Atlantic's proposal to include $1.078 million in fees as an exogenous cost because it would be premature to allow exogenous treatment prior to adoption of final rules in the rulemaking initiated by the *1994 Fees Notice.*[100]

3. Replies

43. Rochester-Vista maintains that, because the Budget Act regulatory fees are beyond their control and uniquely affect telecommunications firms, they fit squarely within the Commission's definition of an exogenous cost.[101] Rochester-Vista further argues that Allnet's assertion that the new regulatory fees are similar to an endogenous tax law change is incorrect.[102] Rochester-Vista asserts that, even if Allnet's tax analogy were correct, exogenous treatment would still be appropriate because the new regulatory fees uniquely affect telecommunications firms and not the economy generally, and thus meet the Commission's standards for exogenous treatment of a tax.[103]

44. Rochester-Vista also argues that treating the fees exogenously in the 1994 annual access proceeding would not be premature absent a final decision in the rulemaking initiated by the *1994 Fees Notice.*[104] Rochester-Vista reasons that, because the Budget Act authorized the Commission to assess the fees and specified the fee schedule for the first year after enactment, it is reasonably certain that the Commission's proposed fee schedule will become effective

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[98] Allnet Petition at 2-3, *citing LEC Price Cap Order*, 5 FCC Rcd at 6808.

[99] *Id.* at 3.

[100] Sprint Petition at 4, *citing 1994 Fees Notice.*

[101] Rochester-Vista Reply at 11.

[102] *Id.* at 12.

[103] *Id.* at 12 n.29, *citing* Rochester Telephone Corp., DA 91-1431 (Com. Car. Bur. Nov. 15, 1991).

[104] *Id.* at 12-13.

during the forthcoming tariff year.[105]

4. Discussion

45. Section 61.45(d) limits the categories of exogenous costs to those listed in the rule and those designated as such by a Commission Order.[106] The regulatory fees at issue are not included among those costs listed as exogenous in Section 61.45(d), nor have they been designated as such in any Commission Order. Therefore, Rochester Vista's treatment of the fees as exogenous costs violates Section 61.45(d) of the rules. Absent a rulemaking, the only means available to Rochester Vista to obtain exogenous treatment of the regulatory fees is to secure a waiver of Section 61.45(d).[107] Rochester-Vista, however, has not filed a petition seeking waiver of that rule section. Accordingly, we conclude that the Rochester-Vista proposal to treat the regulatory fees exogenously violates our price cap rules and, as such, is patently unlawful. We therefore order Rochester-Vista to recalculate their PCIs in order to reflect endogenous treatment of the regulatory fees required by the Budget Act.

C. Exogenous Treatment of Accounting Changes for Retiree Health Costs

1. Background

46. In December 1990, the Financial Accounting Standards Board (FASB) adopted SFAS-106, which requires companies to account for postretirement benefits other than pensions (OPEBs) on an accrual basis beginning December 15, 1992.[108] Prior to that time, companies accounted for OPEBs on a "pay-as-you-go" basis. Under accrual methods, OPEBS are treated as deferred compensation earned by employees as they work.[109] In addition, SFAS-106 requires companies to book the previously unaccrued OPEB amount for retirees and active employees as of the date that the company adopts SFAS-106. This amount is called the transitional benefit obligation (TBO).[110]

47. The Bureau subsequently approved requests made by two LECs to adopt SFAS-106

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[105] *Id.* at 13.

[106] 47 C.F.R. § 61.45(d).

[107] *See, e.g., 1994 Fees Order*, at n.38; Petition for Waiver of the Commission's Rules to Recover Network Depreciation Costs, 9 FCC Rcd 377 (1993).

[108] *See 1993 Annual Access Order*, 8 FCC Rcd at 4961.

[109] *Id.*

[110] *Id.*

accounting on or before January 1, 1993.[111] The Bureau also directed carriers to use the SFAS-106 option of spreading TBO amounts over prescribed periods of time, in order to avoid the distortion of LEC operating results from a one-time inclusion of the TBO amounts.[112] Several price cap LECs subsequently filed tariffs seeking exogenous treatment of OPEBS, which the Bureau suspended and investigated.[113] In the *OPEB Order*, the Commission denied the LECs' request for exogenous treatment of OPEBs, but did not foreclose further consideration of whether to treat the TBO portion of OPEBS exogenously upon a more complete record.[114]

48. Several LECs then sought exogenous treatment of the TBO amounts in their 1993 annual access tariffs.[115] The Bureau suspended these transmittals, and designated for investigation the issue of whether the LECs have borne their burden of demonstrating that implementing SFAS-106 results in an exogenous cost change for the TBO amounts under the Commission's price cap rules.[116] That investigation is now pending before the Commission.

49. In its 1993 access tariff Rochester sought exogenous treatment of TBO amounts for the period from July 1, 1993 through June 30, 1994.[117] Rochester also sought "retroactive" exogenous treatment for additional TBO amounts for the six-month period preceding the 1993

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[111] Southwestern Bell Corporation, GTE Service Corporation, Notification of Intent To Adopt Statement of Financial Accounting Standards No. 106, Employer's Accounting for Postretirement Benefits Other Than Pensions, 6 FCC Rcd 7560 (Com. Car. Bur. 1991).

[112] Under this option, LECs could either spread the TBO over a twenty-year period, or over the average remaining service period of active plan participants. *Id.*

[113] Treatment of Local Exchange Carrier Tariffs Implementing Statement of Financial Accounting Standards, "Employers Accounting for Postretirement Benefits Other Than Pensions," 7 FCC Rcd 2724 (Com. Car. Bur. 1992).

[114] Treatment of Local Exchange Carrier Tariffs Implementing Statement of Financial Accounting Standards, "Employers Accounting for Postretirement Benefits Other Than Pensions," 8 FCC Rcd 1024, 1037 (1993), *appeal docketed*, Nos. 93-1168, 93-1185, 93-1218 (D.C. Cir., argued May 19, 1994).

[115] Specifically, Ameritech, Bell Atlantic, BellSouth, GTOC, GTSC, Lincoln, NYNEX, Rochester, Southwestern, and U S West sought exogenous treatment for such costs.

[116] *1993 Annual Access Order,* 8 FCC Rcd at 4965, 4973.

[117] These same LECs include exogenous adjustments for these OPEB amounts in their 1994 access tariffs.

tariff year -- from January 1, 1993 through July 1, 1993.[118] In its 1994 access tariff, Rochester now proposes to adjust its PCIs by making an exogenous cost adjustment that would cancel the effect on those PCIs of that portion of the TBO amounts it claimed in its 1993 access tariffs that represents the six-month "retroactive" period.

2. Contentions of the Parties

50. Allnet argues that Rochester should base its proposals to cancel the effect of earlier TBO adjustments on the outcome of the Bureau's investigation of the 1993 annual access tariffs.[119] Allnet further contends that, if the amounts to be reversed are not correctly calculated the rates proposed by Rochester may be overstated.[120] MCI maintains that, because the issue of whether to recognize OPEBs as exogenous cost changes is still pending in the OPEB investigation initiated in 1993, we should suspend this year's price cap access filings for at least one day.[121] Rochester-Vista replies that Rochester correctly included TBO costs in its rate development, just as it did in its 1993 annual access tariff filing, and has provided ample justification for its calculations.[122]

3. Discussion

51. We believe that it is premature to resolve here the issues of whether Rochester should adjust its PCIs to cancel the effect of its previous exogenous cost treatment of TBO amounts, and whether it has identified the correct amounts on which to base that adjustment. Resolution of these issues must await a final Order disposing of the larger and more fundamental questions regarding exogenous treatment of OPEBs being examined in the CC Docket 93-193 investigation.[123] We also find that Allnet raises an important issue as to whether the amounts that LECs propose to remove from their PCIs are correct. Moreover, Rochester, continues to include

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[118] *See, e.g.*, Bell Atlantic D&J, Section 4, at 9-10; NYNEX D&J, at 44-45; U S West D&J, Section 1, at 11-12.

[119] Allnet Petition at 4.

[120] *Id.*

[121] MCI Petition at 25.

[122] Rochester-Vista Reply, at 13-14. Rochester-Vista notes that because Vista did not include any TBO costs in either its 1993 or 1994 annual access tariffs, the issue does not apply to it. *Id.* at n.33

[123] *See 1993 Annual Access Order*, 8 FCC Rcd at 4961-65.

TBO amounts in its 1994 annual access filings, as it did in its 1993 tariff filing.[124] Accordingly, because the issues raised by the Rochester's 1994 tariff filing are substantially similar to those designated for investigation in the *1993 Annual Access Order*,[125] we are suspending for one day the OPEB provisions in the Rochester's transmittal. We are also incorporating Rochester's OPEB provisions into the Docket 93-193 investigation and making those transmittals subject to the accounting order imposed in that docket. After termination of the 1993 investigation and prior to the terminiation of this investigation, we will give Rochester an opportunity to present any legal argument or factual circumstances that might lead us to conclude that the decisions reached in CC Docket No. 93-193 on TBO issues should not control our treatment of Rochester's 1994 access transmittal.

V. OTHER ISSUES

A. Interest on Amounts Reallocated From Regulated to Non-Regulated Accounts

1. Background

52. Under Section 61.45(d)(1)(v) of the rules, 47 C.F.R. § 61.45(d)(1)(v), price cap LECs are required to make exogenous cost adjustments to their PCIs to reflect the amounts of investment that they have reallocated from regulated to non-regulated accounts. In their 1994 access tariffs, BellSouth and NYNEX include exogenous cost adjustments for investments reallocated from regulated to non-regulated accounts.[126]

2. Contentions of the Parties

53. According to Sprint, Nevada Bell has failed to include interest on the reallocated amounts in the exogenous adjustments it made to its PCIs to reflect reallocation of investment from regulated to non-regulated accounts based upon actual 1993 results.[127] Sprint concludes that, as is the case for exogenous adjustments required to meet sharing obligations, the Nevada Bell should include interest at 11.25 percent on reallocated revenue requirement.[128]

54. In its reply, Nevada Bell asserts that there is no rule that requires the inclusion of interest in the calculation of exogenous costs for reallocation of investment from regulated to

[124] **cite D&Js**

[125] 8 FCC Rcd at 4965.

[126] BellSouth Tariff F.C.C. No. 1, Transmittal No. 197, D&J, at 1-3 and Vol. 2-2, at Tab A; NYNEX Tariff F.C.C. No. 1, Transmittal No. 288, D&J, at 44.

[127] Sprint Petition at 6.

[128] *Id.*

non-regulated accounts.[129] Nevada Bell contends that the analogy Sprint makes between interest on reallocation amounts and the interest required on sharing amounts is flawed. Nevada Bell notes that the price cap rules explicitly require that interest be imputed to any sharing obligation. The rules do not, however, require that interest be imputed to the exogenous treatment of investment reallocations.[130] Nevada Bell additionally notes that, even if interest were required, the overall effect on its price cap baskets would be insignificant because the amount it reallocated from regulated to non-regulated accounts is only $4,159, for which the required interest would be less than $500.[131]

3. Discussion

55. We have reviewed Nevada Bell's proposed treatment of the exogenous costs for reallocation of investment from regulated to non-regulated accounts and all related pleadings. As Nevada Bell correctly avers, there is no rule or policy requiring the inclusion of interest in the calculation of such costs. The rule that governs reallocation from regulated to non-regulated accounts, Section 61.45(d)(1)(v), does not require the inclusion of interest. Moreover, the Commission did not impose any requirement to include interest, or express an intent to establish such a requirement, when it classified reallocations of investment from regulated to non-regulated accounts as exogenous.[132] The Bureau therefore concludes that Sprint has failed to show that the failure of Nevada Bell to include interest on investment reallocated from regulated to non-regulated accounts is patently unlawful.

B. Calculation of Carrier Common Line Rates by Pacific Bell

1. Background

56. Section 61.46(d) of the Commission's rules, 47 C.F.R. § 61.46(d), prescribes the method that price cap LECs are to follow in calculating the maximum allowable carrier common line (CCL) charges that they may impose. In the *1994 TRP Order*, the Bureau established the updated "Chart CCL-1," that price cap LECs were to use to display their computations for deriving their maximum CCL rates, including base period CCL and subscriber line charge demand and rates.[133] The Bureau indicated that Chart CCL-1 defines the level of detailed information it needs detail necessary in order to verify whether a carrier correctly computed the

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[129] Nevada Bell Reply at 5-6.

[130] *Id.*

[131] *Id.* at n.11.

[132] *LEC Price Cap Order*, 5 FCC Rcd at 6807-08.

[133] 9 FCC Rcd at 1061